

BEFORE THE STATE TAX APPEAL BOARD
OF THE STATE OF MONTANA

JUNE GESSAMAN,)	
)	DOCKET NO.: PT-1997-16
Appellant,)	
)	
-vs-)	
)	
THE DEPARTMENT OF REVENUE)	FINDINGS OF FACT,
OF THE STATE OF MONTANA,)	CONCLUSIONS OF LAW,
)	ORDER and OPPORTUNITY
Respondent.)	<u>FOR JUDICIAL REVIEW</u>

The above-entitled appeal was heard on April 21, 1999, in the City of Great Falls, in accordance with an order of the State Tax Appeal Board of the State of Montana (the Board). The notice of the hearing was given as required by law.

The taxpayer's son, Ronald Gessaman, presented testimony in support of the appeal. The Department of Revenue (DOR), represented by Jason Boggess, residential appraiser, presented testimony in opposition to the appeal. Testimony was presented and exhibits were received. The Board then took the appeal under advisement; and the Board having fully considered the testimony, exhibits and all things and matters presented to it by all parties, finds and concludes as follows:

FINDINGS OF FACT

1. Due, proper and sufficient notice was given of this

matter, the hearing, and of the time and place of the hearing. All parties were afforded opportunity to present evidence, oral and documentary.

2. The property subject of this appeal is described as follows:

The improvements located on lot 1, Block 11, Boston and Great Falls Addition to the City of Great Falls, County of Cascade, State of Montana. (Assessor Code 0000475200).

3. For the 1997 tax year, the DOR appraised the subject property at value of \$11,250 for the land and \$72,250 for the improvements. The land value is not in contention. The taxpayer appealed to the Cascade County Tax Appeal Board on August 11, 1997 stating:

The DOR increased the improvement's appraisal by 63% from 1996's \$44,300 to the current \$72,250. This is on top of the previous 41% increase experienced in the 92/93 reappraisal. There have been no changes in the property during this 6 yr. period except increasing age. This 130% increase in just 6 yrs is unjustified and based on erroneous/arbitrary property classification factors.

4. In its October 22, 1997 decision, the county board adjusted the value of the improvements stating:

After hearing testimony and reviewing exhibits, the Board feels the grade on the dwelling should be lowered to a "4" resulting in a new improvement value of \$70,550.00. The land value remains at \$11,250.00.

5. The taxpayer then appealed that decision to this Board on November 20, 1997, stating:

The county tax appeal board failed to:

1. Order entry of taxpayer-demonstrated correct physical data for this property on the appropriate DOR "Property Record Card" (PRC-452); and
2. Ensure the consistency of this properties' appraisal characteristics, ie the "Effective Year", "Physical Condition", and "CDU", from appraisal cycle to appraisal cycle.

Documentation was presented by the taxpayer at the CTAB hearing showing at least two specific instances of incorrect physical data entry on the DOR's property data card for this property. One of these incorrect data entries was documented during a previous CTAB hearing in 1994 and never corrected by the DOR. Based on past history, it is unlikely the DOR will make the necessary corrections to this properties' physical data without specific appeal board ordered action.

Unless physical improvements are made to a property, the property appraisal characteristics for a given property must be consistent from appraisal cycle to appraisal cycle and reflect the increasing age of the property. If property appraisal characteristics such as physical condition, CDU, and effective year can be upgraded from appraisal cycle to appraisal cycle without any improvements in the property, then the basis for those property appraisal characteristics is subjective and arbitrary.

7. The taxpayer amended the requested value of the improvements to \$50,032 at the hearing before this Board.

TAXPAYER'S CONTENTIONS

Mr. Gessaman indicated that this appeal arises from two specific areas of assessment:

1. The inaccurate physical characteristics entered on the property record card by the Department of Revenue.
2. Lack of consistency and subjective property characteristic data for this property from the

previous appraisal cycle to the current appraisal cycle.

Taxpayer exhibit #2 is a copy of the 1997 Assessment Notice. The improvement market value for the previous appraisal cycle was \$44,330 and the current appraised value is \$72,250, or an increase of 63%.

Taxpayer exhibit #3 is the property record card for the subject. The areas of concern are:

Finished basement:	3 (typical)
Pre-fab fireplace/stove	one
Misc. other feature	BD (built-in dishwasher)
Effective year	1980
Physical condition	5 (good)
Grade	4+ (less than average)
CDU (condition/desirability/utility)	GD (good)
RG3 (garage)	Year - 1964
PA2 (concrete paving)	year - 1990; size - 760 SF

Taxpayer exhibit #6 is a comparison of the information illustrated on the DOR's property record card versus the taxpayers determination. Summarized this exhibit illustrates the following:

	<u>DOR Reported</u>	<u>Actual per Owner</u>
Dimensions (inc. additions)	25'x 37' + 12'x20'	24'8"x36'8" + 12'20'
Bsmt (sf)	925	904
1 st (total inc. additions) (sf)	1165	1144
Heated Floor Area (sf)	1165	1144
Garage (year)	1964	1963
Built-Ins (type/no.)	BI/1	
Other Features	Pre-Fab Fireplace/Stove	
Driveway (year/sf)	1990/760	1986/579
Effective Year	1972 1980	1967
Physical	4=Avg 5=Good	4=Avg
CDU	FR GD	FR

Taxpayer exhibit #7 is a copy of the property record card for the previous appraisal cycle. The emphasis of this exhibit is:

Miscellaneous Other Features	BI
Effective Year	1972
Physical Condition	4 (fair)

Grade	4+
CDU	FR
RG3 (garage)	1964

Taxpayer exhibit #8 is a copy of an appeal form for the previous appraisal cycle. The CTAB adjusted the value of the improvements to \$44,330, stating, *"After hearing testimony and reviewing exhibits, the Board lowered the grade to 4 for a new building value of \$44,330.00 with the land remaining at \$10,000.00. The Board finds these values to be fair and equitable."*

Taxpayer exhibit #9 illustrates the calculations used to arrive at the requested improvement value of \$50,032.

Taxpayer exhibit #10 is a copy of the DOR's "Montana Comparable Sales", which illustrate the five sales used to establish the value for the subject property. Mr. Gessaman emphasized that none of the comparables are two bedroom homes and all are grade five homes. Mr. Gessaman contends the comparables selected by the DOR are not comparable due to the differences in the physical characteristics and location.

DOR'S CONTENTIONS

DOR's Exhibit A is the property record card for the subject. Summarized, this exhibit illustrates the following:

<u>Improvement Data</u>	
Floor area	1,165 square feet
Bedrooms	2
Bathrooms	1
Year Built	1962
Effective Age	1980
Physical Condition	5 - Good
Grade	4 plus
Condition/Desirability/Utility (CDU)	Good

Dwelling Computations

Replacement Cost New (RCN)		\$ 66,510
Percent Good	X	86%
Economic Condition Factor	X	109%
Replacement Cost New Less Deprec.		\$ 62,350

Mr. Boggess testified that the property record card has been modified to reflect that the home does not have a built-in dishwasher and the area of paving has been corrected. The wood stove has remained on the property record card because it is considered a fixture to the structure. Page two of the exhibit is the "Montana Comparable Sales" sheet, which is the method of appraisal used to determine the market value for the subject property. Summarized this exhibit illustrates the following:

MONTANA COMPARABLE SALES						
	Subject	Comp #1	Comp #2	Comp #3	Comp #4	Comp #5
Year Built/Eff. Yr	1962/80	1965/80	1965/80	1958/80	1951/80	1957/80
Basement	Full	Full	Full	Full	Full	Full
Bed/Bath	2/1	4/1	4/2	4/2	4/2	3/1
Grade	4+	5	5	5	5	5
CDU	GD	GD	GD	GD	GD	GD
Finished Basement	463	510	1,124	500	694	0
Total Living Area	1,165	1,164	1,124	1,110	1,196	1,120
Detached Garage	624			624		528
Attached Garage		364	572		330	
Pricing Data						
RCN	\$66,960	\$90,240	\$92,720	\$77,910	\$84,020	\$56,780
Percent Good	86%	86%	86%	86%	86%	86%
RCNLD	\$62,770	\$84,600	\$86,920	\$73,030	\$78,760	\$53,230
Total OB&Y	\$7,140	\$840	\$550	\$5,450	\$0	\$6,040
Land Value	\$11,250	\$12,771	\$11,070	\$11,250	\$11,250	\$9,000
Total Cost	\$81,160	\$98,211	\$98,540	\$89,730	\$90,010	\$68,270
Valuation						
Sale Date		6/95	10/95	8/95	2/95	12/94
Sale Price		\$87,500	\$95,000	\$82,500	\$75,900	\$77,000
MRA Estimate	\$82,752	\$85,915	\$89,127	\$86,845	\$81,737	\$68,074
Adjusted Sale		\$84,337	\$88,625	\$78,407	\$76,915	\$91,678
Comparability		28	30	34	34	39
Weighted Estimate	\$83,404					
Market Value	\$83,500					
Field Control Code Indicator	2					

DOR's exhibit B is a portion of the "Montana Appraisal Manual" describing grade four and five dwellings. A grade four dwelling is defined as: *"Residences are of fair quality construction built with average materials and workmanship. These houses will meet minimum building codes and construction requirements of lending institutions and mortgage insuring agencies. Exterior ornamentation is usually limited to the front of inexpensive fenestration. Interior finishes are plain with few refinements. These homes are usually designed from stock plans for speculative residential developments.* Mr. Boggess stated that some of the physical characteristics fit the grade four determination and some fit the grade five determination, therefore, it was determined to attach a four plus to the residence.

Mr. Boggess testified that the comparability numbers listed on page two of exhibit A, Montana Comparable Sales, range from 28 to 39 respectively. The lower the number the more suitable, or the less the comparable sales were adjusted to appear more like the subject property. Comparability numbers that range from 1 to 50 are considered very good, 50 to 100 are considered good and 100 to 150 are considered average.

BOARD'S DISCUSSION

The CTAB reduced the grade of the home to a four and the DOR did not appeal that decision to this Board, therefore, the

grade of this structure is a grade four. Based on the evidence and testimony there is nothing to suggest that the physical condition and CDU for the structure exceed that of an average rating. The DOR has demonstrated that the structure has been maintained in a sufficient manner to support an effective age of 1980.

The DOR has determined the market value for this property based on the sales comparison approach to value. In determining market value based on this method of appraisal, adjustments to the comparable sales price are required. The subject property can be consider superior to the comparable sales in some respects and inferior in other respects and the CAMAS (Computer Assisted Mass Appraisal System) is designed to address these differences. The DOR's "Montana Appraisal Manual" defines the sales comparison approach as, *"One of the three traditional approaches to value by which an indication of the value of a property is arrived at by compiling data on recently sold properties which are comparable to the subject property and adjusting their selling prices to account for variations in time, location, and property characteristics between the comparable and the subject property."*

CONCLUSIONS OF LAW

1. The State Tax Appeal Board has jurisdiction over this matter. **§15-2-301 MCA.**
2. **§15-8-111, MCA. Assessment - market value standard -**

exceptions. (1) All taxable property must be assessed at 100% of its market value except as otherwise provided.

3. **15-2-301, MCA, Appeal of county tax appeal board decisions.**

(4) In connection with any appeal under this section, the state board is not bound by common law and statutory rules of evidence or rules of discovery and may affirm, reverse, or modify any decision.

4. It is true, as a general rule, that the appraisal of the Department of Revenue is presumed to be correct and that the taxpayer must overcome this presumption. The Department of Revenue should, however, bear a certain burden of providing documented evidence to support its assessed values. (Western Airlines, Inc., v. Catherine Michunovich et al., 149 Mont. 347, 428 P.2d 3,(1967)).

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ORDER

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the Department of Revenue shall change the grade of the residence to a four and change the physical condition and CDU to average. The DOR shall re-market model the property and enter that value on the tax rolls of Cascade County by the Assessor of that county for tax year 1997. The appeal of the taxpayer is granted in part and denied in part and the decision of the Cascade County Tax Appeal Board is modified.

Dated this 3rd of June, 1999.

BY ORDER OF THE
STATE TAX APPEAL BOARD

GREGORY A. THORNQUIST, Chairman

(S E A L)

JAN BROWN, Member

JEREANN NELSON, Member

NOTICE: You are entitled to judicial review of this Order in accordance with Section 15-2-303(2), MCA. Judicial review may be obtained by filing a petition in district court within 60 days following the service of this Order.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 3rd day of June, 1999, the foregoing Order of the Board was served on the parties hereto by depositing a copy thereof in the U.S. Mails, postage prepaid, addressed to the parties as follows:

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